PB-217 578

DIGEST OF WATER POLLUTION CONTROL LEGISLATION ... FLORIDA

Public Health Service
Washington, D. C.

September 1958

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U. S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

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Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

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DIGEST OF FLORIDA WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

In Florida the State Board of Health is the agency which has the primary function for controlling water pollution. The Board has general control and supervision over underground water, lakes, rivers, streams, canals, ditches and coastal waters insofar as their pollution may affect the public health or impair the interest of the public or persons lawfully using them. The Board also exercises general supervision and control over all systems of water supply, sewerage, refuse and sewage treatment insofar as their adequacy, sanitary and physical conditions affect the public health (1955 Cum. Supp., secs. 381.251, 381.261).[1/]

The State Board of Conservation is authorized to make rules and regulations providing for, among other things, the prevention of pollution of fresh water supplies, by oil, gas or salt water (1955 Cum.Supp., sec. 377.22).

II. ADMINISTRATIVE ORGANIZATION

State Board of Health

1. Composition and organization

The Board is composed of five members appointed by the Governor. Two members must be licensed doctors of medicine, one must be a licensed dentist, one must be a licensed pharmacist, and one must be a discreet citizen of the State. The Board elects a President at each annual meeting (1955 Cum. Supp., sec. 381.011). The Governor appoints a State Health Officer who is the Executive Secretary and Chief Administrative Officer of the Board (1955 Cum. Supp., secs. 381.041, 381.061).

1/ Citations in this digest refer to the Florida Statutes Annotated and the 1955 Cumulative Supplement thereto, unless otherwise noted.

2. Powers and duties

a) General authority

The Board advises State health officers in the performance of their duties; supervises the enforcement of laws, rules and regulations relating to sanitation; adopts and promulgates rules and regulations, among other things, for the:

1. Prevention and control of public health nuisances;
2. Sanitary practices relating to drinking water, watersheds used for public water supplies, disposal of excreta, sewage or other wastes, the disposal of garbage and refuse;
3. Pollution of lakes, streams and other waters;
4. Qualifications of operators of water purification and sewage treatment plants (1955 Cum. Supp., sec. 381.031)

b) Issuance of permits and review of plans and specifications

All plans and specifications for the installation or material alteration or extension of a system of water supply, sewerage, refuse or sewage disposal by a county, municipality, person, firm, corporation, public or private institution or community of more than 25 inhabitants, must be submitted to and approved by the Board before construction (1955 Cum. Supp., sec. 381.271).

A permit from the Board is required for the sinking of any well within the limits of any city or town or within five miles thereof, for the purpose of draining any surface water or to discharge any sewage into the underground waters of the State (Sec. 387.02). Anyone discharging such sewage into the underground waters of the State must discontinue such discharge within 10 days after being so ordered by the Board (Sec. 387.05).

c) Enforcement

Any member of the Board or any officer or agent designated for the purpose is authorized to enforce any of the provisions of the Act or any rule and regulation promulgated by the Board. It is made the duty of all

State and county attorneys, sheriffs, constables, police officers and other appropriate city and county officials upon request to assist the State health officer or any other agent of the Board to enforce the State health laws and the rules and regulations promulgated by the Board (1955 Cum. Supp., secs. 381.111, 381.121).

If the Board, after investigation, finds that any system of water supply, sewerage, refuse or sewage disposal constitutes a nuisance or menace to the public health, it may issue an order requiring the owner to correct the improper condition (1955 Cum. Supp., sec. 381.291).

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The State Health Officer upon obtaining information of the existence of a nuisance notifies the person committing or maintaining the nuisance to remove it within 24 hours or such other reasonable time as may be determined, and if it is not removed within the time prescribed, the State Health Officer can remove the same and the cost of such removal is to be paid by the person committing the nuisance (Sec. 386.03).

Any one who violates the provisions of the Act or any rule or regulation promulgated by the Board is guilty of a misdemeanor and is subject to a fine not exceeding $1,000 or to imprisonment not exceeding six months (1955 Cum. Supp., sec. 381.411)

d) Conduct of studies, investigations and research

The Board is authorized to conduct experiments relating to purification of water and treatment of sewage, waste or refuse (1955 Cum. Supp., sec. 381.281). The Board is authorized to establish and maintain laboratories for microbiological and chemical analyses and any other purposes it determines necessary for the protection of the public health (1955 Cum. Supp., sec. 381.321).

e) Cooperation with other agencies

The Board is authorized to consult with and advise counties, municipalities, and other persons, as to the source of water supply, methods of water purification, and disposal of drainage, sewage or refuse. It also advises and consults with any business whose sewage, waste or waste products may tend to pollute the waters of the State (1955 Cum. Supp., sec. 381.281).

The Board can apply for and accept any funds, grants, gifts or services made available to it by any agency or department of the Federal Government or any other agency or private individual in aid of any present or future health program undertaken (Cum. Supp., sec. 381.201).

f) Administrative powers

The Board is authorized to adopt and promulgate rules and regulations to carry out the health laws of the State (1955 Cum. Supp., sec. 381.031).

The Board is authorized, through the Executive Secretary, to commence and maintain all proper actions and proceedings for any or all of the following purposes:

1. To enforce its rules and regulations;
2. To enjoin and abate nuisances dangerous to the health of persons, fish and livestock;
3. To compel the performance of any act specifically required of any person, officer or board by any law of the State relating to public health; and
4. To protect and preserve the public health (Ibid).

III. EXEMPTION FROM OPERATION OF LAW

1. All municipalities and every person, firm or corporation operating a manufacturing or industrial plant in Nassau County are granted the right to discharge and deposit sewage, industrial and chemical wastes and effluents into the tidal waters of Nassau County, provided that the navigation of such waters is not impeded or obstructed, nor the public health impaired thereby (Laws of Florida, 1941, (Spec. Laws) Vol. 2, Ch. 21415).

2. All municipalities and every person, firm or corporation operating a manufacturing or industrial plant in Taylor County are granted the right to discharge and deposit sewage, industrial and chemical wastes and effluents into the waters of Fenholloway River and the waters of the Gulf of Mexico into which such river flows, provided that the navigation of such waters is not impeded or obstructed (Laws of Florida, 1947, (Spec. Laws) Vol. 2, pt. 2, Ch. 24952).

IV. MISCELLANEOUS STATUTORY PROVISIONS RELATED TO WATER POLLUTION

Anyone discharging sewage or surface drainage, or permitting the same to flow into the underground waters of the State contrary to law is deemed guilty of a misdemeanor punishable by a fine of $25 for each offense or by imprisonment not to exceed one month. Each day's violation is a separate offense (Sec. 387.06).

It is unlawful to wilfully or maliciously defile, corrupt or make impure any spring or other source of water reservoir, or destroy or injure any pipe, conductor of water or other property pertaining to an aqueduct. Violation is punishable by imprisonment not exceeding one year, or by fine not exceeding $1,000 (Sec. 387.07).

It is unlawful to deposit in any waters of the State or to deposit in a place where it may be washed into such waters, any rubbish, filth, poisonous or deleterious substances, liable to affect the health of persons, fish or livestock. Violation is a misdemeanor punishable by a fine of $500 (Sec. 387.08). In addition to this general law which prohibits the pollution of the waters of the State, there are other additional laws which specifically prohibit the pollution of the waters of counties having a population of not less than 23,625 and not more than 24,000, according to the

latest official census, and of the Peace River, the Withlacoochee River, the Alafia River, and Lake Okeechobee (Laws of Florida, Ex. Sess. 1955-1956 (Gen. and Spec.) Ch. 31429; Gen. Laws 1955, Vol. 1, pt. 1, Ch. 29765; Gen. Laws 1955, Vol.1,pt. 2, Chs. 30288; 30289, 30293).

It is unlawful for anyone to cause any dyestuff, coal tar, oil, sawdust, poison or deleterious substances to be thrown, run or drained into any of the fresh running waters of the State in quantities sufficient to injure, stupefy, or kill fish which may inhabit the same at or below the point where any such substances are discharged. This section exempts the mining industry which discharges its waters on the surface of the land if carried on under precautionary measures approved by the Game and Fresh Water Fish Commission. Violation is a misdemeanor punishable by a fine for first offense of not less than $100 or more than $300, or imprisonment not to exceed 90 days, or both; for second and subsequent offenses the fine is not less than $200 or more than $500, or imprisonment for not more than 6 months (1955 Cum. Supp., sec. 372.05).

It is unlawful to throw or place any dynamite, lyddite, gunpowder, cannon cracker, acids, filtration discharge, debris from mines, Indian berries, sawdust, green walnuts, walnut leaves, creosote, oil, or other explosives or deleterious substance or force into the fresh waters of the State whereby fish therein are or may be injured. This section does not prevent the release of water slightly discolored by mining operations or water escaping from such operations as the result of providential causes (Sec. 372.75).

It is unlawful for any person to discharge, flow, drain or deposit oil upon or into any of the salt waters of the State, either from or out of any vessel, barge, or other floating craft, or from any wharf, mill, mine, factory or other establishment or place whatever (1955 Cum. Supp., sec. 370.09).

Persons engaged in the business of mining any mineral or subterranean product in the State, must provide necessary places of deposit for the waste, wash or debris of any mine or mines operated, and must provide settling pools of sufficient capacity to prevent the escape of waste, wash or debris into any waters of the State, except as provided in sec. 533.02 (Sec. 533.01).

It is unlawful for any person to allow the escape of waste, wash or debris from any mine operated by him into any of the waters of the State, but the escape of water slightly discolored is not to be construed as the escape of waste, wash and debris, nor is the washing away of water, or debris, due to excessive rains or floods which are beyond the control of the operator of the mine within the meaning of the Act (Sec. 533.02). Violation of sections 533.01 and 533.02 is punishable by a fine of not less than $300 nor more than $500, or by imprisonment for a period of not more than 6 months (Sec. 533.06).

It is unlawful to deposit, place, or throw upon any posted public water supply area any filth, garbage, trash, refuse, debris, or human excreta, or of any animal excreta other than by any straying animal (1955 Cum. Supp., Sec. 168.15(5)(c)). Violation is punishable by a fine not exceeding $100, or by imprisonment for not more than 90 days, or both (1955 Cum. Supp., sec. 168.17). An injunction may also be obtained against trespassers (1955 Cum. Supp., sec. 168.16).

It is unlawful to place or cause to be placed any water hyacinths in any of the territorial waters of the State whether navigable or non-navigable. Violation is punishable by a fine of not more than $200 or imprisonment for not more than 90 days (1955 Cum. Supp., sec. 861.04).

It is unlawful for any person to discharge or cause to be discharged in the tide or salt waters of any bay, port, harbor or river of the state any ballast or material of any kind other than clear stone or rock free from

gravel or pebbles, which said clear stone or rock must be deposited or discharged only in the construction or enclosures in connection with wharves, piers, quays, jetties, or in the construction of permanent bulkheads connecting the solid and permanent portion of wharves (Sec. 309.01).